

SERVICE DATE - MAY 3, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 392X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY
COMPANY—ABANDONMENT EXEMPTION—IN FLATHEAD COUNTY, MT

Decided: May 1, 2002

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a verified notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 3.60-mile line of railroad between milepost 1227.58 and milepost 1231.18, in Kalispell, Flathead County, MT (line). Notice of the exemption was served and published in the Federal Register on March 21, 2002 (67 FR 13209).¹

On April 10, 2002, the Montana Department of Transportation (MDOT) filed a request for a public use condition. To justify a public use condition, a party must set forth: (i) the condition sought; (ii) the public importance of the condition; (iii) the period of time for which the condition would be effective; and (iv) justification for the imposition of the period of time requested. See 49 CFR 1152.28(a)(2). MDOT has met these requirements. A 180-day public use condition will, therefore, be imposed. BNSF may remove the tracks, ties, and signal equipment on the right-of-way, but is required to leave bridges, culverts, and tunnels intact during that period. A public use condition is not imposed for the benefit of any one potential purchaser, but rather to provide an opportunity for an interested person to acquire the right-of-way that has been found appropriate for public purposes.²

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

¹ The exemption was to become effective on April 20, 2002. However, by decision served on April 18, 2002, the Board reopened the proceeding and imposed two environmental conditions on the abandonment exemption.

² Under 49 U.S.C. 10905, the Board may prohibit the disposal of rail properties that are proposed to be abandoned and are suitable for public purposes for a period of not more than 180 days after the effective date of the decision approving or exempting the abandonment.

It is ordered:

1. The proceeding is reopened.

2. MDOT's request for issuance of a public use condition is granted. The exemption of the abandonment of the line is subject to the condition that BNSF leave intact all of the right-of-way underlying the tracks, including bridges, trestles, culverts and tunnels (but not track, ties and signal equipment), for a period of 180 days from the April 20, 2002 effective date of the abandonment exemption (i.e. until October 17, 2002), to enable any State or local government agency, or other interested person to negotiate the acquisition of the line for public use.

3. This decision is effective on its service date of service.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams
Secretary